

ORDINANCE NO. 634 2ND SERIES

AN ORDINANCE OF THE CITY OF EAGAN, MINNESOTA, AMENDING EAGAN CITY CODE CHAPTER TEN ENTITLED “PUBLIC PROTECTION, CRIMES AND OFFENSES” BY AMENDING SECTION 10.21 REGARDING PLANTING AND MAINTENANCE OF TREES AND GRASS ON PRIVATE PROPERTY; AND BY ADOPTING BY REFERENCE EAGAN CITY CODE CHAPTER 1 AND SECTION 10.99.

The City Council of the City of Eagan does ordain:

Section 1. Eagan City Code Chapter 10.21 is hereby amended by modifying Section 10.21, to read as follows:

Sec. 10.21. – Planting and maintenance of trees and grass on private property.

Subd. 1. Purpose and application. The regulations set forth in this section are for the purposes of protecting and promoting the public health, safety and general welfare of the people of the city by regulating the planting and maintenance of trees in order to protect trees and to prevent and abate hazardous and nuisance trees and conditions within the city. It is also the purpose of this section to regulate establishment of turf grass or other permitted vegetation to promote proper maintenance of vegetation, control noxious weeds, and encourage the planting and maintenance of other permitted vegetation to provide diversity and environmental benefits. This section applies to all private property at all times on a continuing basis.

Subd. 2. Definitions.

Edible vegetation means any herb plant or fruit or vegetable producing plant which all or a part thereof is edible.

Invasive species plant(s) means any plant species that is not native to Minnesota or its regional ecosystem that can spread or be spread into any non-cultivated soil site and establish itself, expanding the plant species' population by its own volition and generally harm, destroy or prevent native plants.

Landscape bed means an area or tiered areas delineated by landscape material or established turf grasses as its border(s) and is designed for and maintained with ornamental plants or native grasses and forbs or edible vegetation.

Low maintenance turf grasses or ground covers means turf grasses and ground covers of a species which is of a cultivar that requires little or no water or mowing once established.

Managed natural landscape means a planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plants. Managed natural landscapes do not include turf-grass lawns left unattended for the purpose of returning to a natural state.

Maintenance plan means a document demonstrating a precise course of maintenance over months and seasons for a planned area of managed natural landscape.

Meadow vegetation means grasses and forbs (flowering broadleaf plants) that are native or adaptive to this state, excluding noxious weeds and turf grasses, but including and not limited to: sedge meadow vegetation, mesic prairie vegetation, dry prairie vegetation, wet prairie vegetation, perennial wildflower, and native plant communities.

Native grasses and forbs mean grasses, including prairie grasses, and forbs (flowering broad-leaf plants) that are indigenous to this state.

Native plant communities mean groupings of native grasses, forbs and other plants that generally occur together in an area due to soil and light conditions, such as: wet prairie, dry prairie, oak savannah, or maple-basswood forest.

Noxious weed means plants designated as such according to Minn. Stats. § 18.77, subd. 8.

Ornamental plants means grasses, flowering perennial and annual plants, shrubs and groundcovers that may not be indigenous to Minnesota, but are adaptable, and planted for aesthetic reasons. Ornamental grasses do not include turf grasses.

Permitted vegetation means established vegetation that is one or a combination of the following: turf grasses; low maintenance ground cover; ornamental plants; rain garden; managed natural landscape; and edible vegetation when planted with other permitted vegetation. Permitted vegetation does not include unmanaged vegetation or any prohibited tree species as defined herein.

Public right-of-way means the surface, air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, trail, avenue, boulevard, drive, court, concourse, bridge, tunnel, park, parkway, skyway, waterway, or property within the city owned by or under control of the city, or dedicated or otherwise conveyed to the public.

Rain garden means a shallow excavated depression with loosened sub-soils in which ornamental plants or native grasses and forbs that are adapted to moist conditions and have deep roots are planted for the purpose of infiltrating and filtering rain water and reducing storm water runoff.

Restoration or *restored* means the process of re-establishing or returning an area to be covered by and comprised of vegetation that is of a native plant community original to the locale of the property to be restored.

Turf grasses means commercially available cultured grass plant varieties, including bluegrass, fescue and ryegrass blends, that are commonly used in regularly cut lawn areas and low maintenance turf grasses as defined herein.

Turf grass lawn means a lawn area composed mostly of turf grasses, intended to be maintained at a height of no more than eight inches.

Unmanaged vegetation means diseased, dead, or poisonous vegetation, invasive species plants, overgrown shrubs, vegetation in a managed natural landscape that is not maintained pursuant to the maintenance plan, or any area(s) on a property that is overgrown by turf grass or noxious weeds.

Vegetation means any non-woody plants.

Woodland means a group or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying 500 or more square feet of property, which are comprised of deciduous trees between four inches and 12 inches in diameter or coniferous trees between four feet and 12 feet in height.

Subd. 3. Establishment and maintenance of turf grass and other permitted vegetation.

- A. This section applies to any lot with a building, and any lot, outlot, or parcels less than one (1) acre in area without a building. Properties exempt from this section include undeveloped lots, outlots or parcels with a contiguous area of more than one (1) acre; any privately owned land encumbered by a stormwater basin, drainageway, wetland, wetland buffer or public water.

1. *Permitted vegetation establishment required.* All areas of a property that constitutes the yard of the property, as the term is defined in the land use regulations of this Code, and that is not otherwise occupied by the driveway or other parking surface, sidewalk, structures, landscape beds, or recreational improvements (such as: swimming pool, tennis or sport court, play equipment) shall be covered by turf grasses, permitted vegetation or woodland that are compatible with the property's existing conditions, including soil, slope and shade conditions.

2. The establishment of turf grass, permitted vegetation or woodland, as required herein for the property, shall be completed within eight months of the issuance of a certificate of occupancy or within 12 months of issuance of a building permit, whichever is earlier. Turf grass establishment shall be completed through sodding or seed and mulch. Any turf grass establishment on and within three feet of all impervious surfaces shall be accomplished through sodding.

3. The property owner shall be responsible for supplemental watering of all areas established with turf grass, permitted vegetation or woodland to ensure sufficient establishment and root development.

4. All areas of the property shall comply with the requirements of the provisions of the land disturbance and erosion control regulations and any other provisions of the City Code as applicable.

5. If any property, or portion thereof, is established as or restored to managed natural landscape or woodland, then all vegetation existing in the proposed establishment or restoration area shall be eliminated in its entirety and the managed natural landscape or woodland vegetation shall be established through transplanting, seeding or other means of propagation. Any managed natural landscape or woodland restoration area should be consistent with best practices methods and standards.

6. No area established as or restored to a managed natural landscape or woodland condition shall have any unmanaged vegetation or any prohibited tree species as provided in this section.

7. Soil erosion prevention measures shall be completed during the transition or establishment period of any managed natural landscape, woodland, or other permitted vegetation area and shall comply with the provisions of the land disturbance and erosion control plan in effect for the property.

8. No shrub, tree, vegetation except turf grass, or any landscape material(s) may be planted or maintained within the public right-of-way, unless approved by the city pursuant to a right-of-way permit as regulated elsewhere in this Code.

9. Rain gardens shall be constructed and maintained in accordance with the best practice methods and standards of the Minnesota Pollution Control Agency or other similar industry practices and standards for rain gardens.

10. Unmanaged vegetation is prohibited and shall not be permitted or maintained on any property.

B. Turf grass and other permitted vegetation maintenance standards.

1. Vegetation on a property shall not exceed a height of eight inches, measured from the base at ground level to the tip of each stalk, stem, blade or leaf, except permitted vegetation other than turf grass that naturally exceeds eight inches in height due to the plant's cultivar.

2. Paragraph 1 above shall not apply to the following areas:

(a) A wetland designated on the official city wetland inventory or zoning map or along the shoreline of a lake, pond or stream;

- (b) A drainage pond or ditch that stores or conveys stormwater;
- (c) An area currently being used as pasture land for domestic hooved animals when permitted by the city's land use regulations in this Code;
- (d) An area of land that has not been graded, landscaped, mowed or otherwise previously disturbed by human or mechanical means;
- (e) A steeply sloped area that makes mowing or cutting vegetation not reasonably practical for equipment operation or safety; and
- (f) A managed natural landscape or woodland area established and maintained in accordance with the provisions of this subdivision.

C. Requirements for managed natural landscapes.

1. No person shall install, permit to be installed, or maintain vegetation constituting a managed natural landscape, without the property owner having a valid managed natural landscape registration with the city. The registration application shall be on the form and pursuant to the application process prescribed by city staff. A managed natural landscape registration shall be valid for 5 years from the date of issuance. The registration is subject to the regulations set forth herein and may be revoked for the failure to comply with the regulations.
2. The application for a managed natural landscape registration and renewal registration shall contain the following:
 - (a) Site plan showing lot lines, buildings, location of proposed managed natural landscaping, the property's legal description, and compliance with the requirement that only turf grass may be grown in the public rights-of-way;
 - (b) Common names of the species the property owner plans to cultivate.
 - (c) A maintenance plan containing the following:
 - (i) Planting diagram showing the location and mature height of all specimens of vegetation;
 - (ii) Detailed information on the maintenance of the plantings; and
 - (iii) Details of any long-term maintenance required for the vegetation.
 - (d) An acknowledgement signed by the property owner acknowledging that :

- (i) The applicant has reviewed any literature provided by the city regarding managed natural landscaping; and
 - (ii) The maintenance plan must be followed as a condition of the managed natural landscape registration.
- 3. The managed natural landscape registration holder shall be responsible for maintaining the vegetation according to the maintenance plan. Failure to follow the maintenance plan shall constitute unmanaged vegetation and a public nuisance.
- 4. The Community Development Director or designee may regularly inspect the property for determination of compliance with the approved maintenance plan on file with the city. For any property not in compliance with the approved maintenance plan, the Community Development Director or designee shall give notice to the managed natural landscape registration holder by U.S. mail stating that the property must be in compliance with the maintenance plan within 30 days. If the registration holder fails to bring the area into compliance with the maintenance plan, the Community Development Director or designee shall:
 - (a) Take the necessary steps to bring the property into compliance with the maintenance plan and abate the public nuisance as referenced elsewhere in this section and chapter; and
 - (b) If city action is required to bring a property into compliance with the maintenance plan and abate the public nuisance on two or more occasions within a 5-year period, the Community Development Director may revoke the managed natural landscape registration:
 - (i) Remove all unmanaged vegetation;
 - (ii) Declare the property ineligible for a managed natural landscape registration, unless the property is sold, for a period of two years; and
 - (iii) In accordance with this section and chapter, assess the property for all fees and costs associated with inspection of the property and any removal of unmanaged vegetation.
- 5. Changes in ownership: A registration hereunder is not transferable. If there is a change in the ownership of the property, then the registration automatically terminates. The new owner of the property must apply for a new registration under this section prior to the change in ownership.

6. Within a managed natural landscape, a minimum three-foot buffer of permitted vegetation shall be maintained, not to exceed the height of eight inches, adjacent to property lines and buildings. The minimum three-foot buffer need not be maintained as required in this paragraph if the adjacent property line is: (a) abutting a public park, open space, a vacant lot, or a wetland, pond, lake, stream or natural area, or (b) the buffer area is located on slopes equal to or greater than three feet horizontal to one foot vertical (3:1).

Subd. 4. Public nuisance. The following shall constitute a public nuisance and shall be immediately abated by the property owner:

- A. Noxious weeds;
- B. Vegetation in violation of this section;
- C. Vegetation in violation of the public rights-of-way plant and vegetation placement provisions in the City Code; and
- D. Unmanaged vegetation or a managed natural landscape that is not maintained in accordance with the approved maintenance plan.

Subd. 5. City to control tree planting. It is unlawful to plant on any lot or land parcel any tree or seed therefrom that is a prohibited species where such trees are not naturally occurring. Prohibited species are defined as the following trees:

- A. Ginkgo (female only);
- B. Box elder;
- C. Non-disease-resistant elm species; and
- D. Nonhybrid cottonwood species.

Subd. 6. Shade tree diseases.

- A. It is unlawful for any person to keep, maintain or permit, any nuisance as defined in section 10.20 of the City Code.
- B. Inspection, diagnosis and abatement of a nuisance shall be in accordance with the procedures and methods specified in section 10.20 of the City Code.

Subd. 7. Abatement. If any such owner fails to assume the primary responsibility described in subdivisions 2, 3, or 4 of this section or to abate any public nuisance under this section, then the city's performance of the work necessary for compliance of this section or the abatement of the public nuisance shall be in accordance with this chapter.

Section 2. Summary approved. The City Council hereby determines that the text of the summary marked "Official Summary of Ordinance No. 634", a copy of which is attached hereto, clearly informs the public of the intent and effect of the ordinance. The City Council further determines that publication of the title and such summary will clearly inform the public of the intent and effect of the ordinance.

Section 3. Eagan City Code Chapter 1 entitled "General Provisions and Definitions Applicable to the Entire City Code Including 'Penalty for Violation'" and Section 10.99, entitled "Violation a Misdemeanor" are hereby adopted in their entirety by reference as though repeated verbatim.

Section 4. Effective Date. This ordinance shall take effect upon its adoption and publication according to law.

ATTEST:

CITY OF EAGAN
City Council

/s/ Elizabeth VanHoose
By: Elizabeth VanHoose
Its: City Clerk

/s/ Mike Maguire
By: Mike Maguire
Its: Mayor

Date Ordinance Adopted: May 6, 2025

Date Ordinance Published in the Legal Newspaper: _____

The following is the official summary of Ordinance No. 634 as approved by the City Council of the City of Eagan on May 6, 2025.

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Chapter 10 of the City Code is amended by amending Section 10.21 to permit and regulate the installation and maintenance of managed natural landscapes as provided by Minnesota law.

A printed copy of the ordinance is available for inspection by any person during regular office hours at the office of the City Clerk at the Eagan Municipal Center, 3830 Pilot Knob Road, Eagan, Minnesota 55122.

Effective date. This ordinance shall take effect upon its passage and publication.